

ESTTA Tracking number: **ESTTA269355**

Filing date: **02/28/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Fetish Trademark Company, LLC
Granted to Date of previous extension	03/04/2009
Address	530 Seventh Avenue New York, NY 10018 UNITED STATES
Attorney information	ALI R. LATIFI TUCKER & LATIFI, LLP 160 EAST 84TH STREET SUITE 5E NEW YORK, NY 10028 UNITED STATES arlatifi@tuckerlatifi.com Phone: 212-472-6262

### Applicant Information

Application No	77497261	Publication date	11/04/2008
Opposition Filing Date	02/28/2009	Opposition Period Ends	03/04/2009
Applicant	Pirozzi, Heather 10072 Dana Drive Huntington Beach, CA 92646 UNITED STATES		

### Goods/Services Affected by Opposition

Class 025. All goods and services in the class are opposed, namely: Flip flops
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### Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2652841	Application Date	06/12/2000
Registration Date	11/19/2002	Foreign Priority Date	NONE
Word Mark	FETISH CLOTHING		

Design Mark	<b>FETISH CLOTHING</b>
Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1999/01/00 First Use In Commerce: 1999/01/00 Clothing, namely sweatshirts, long sleeve t-shirts, short sleeve t-shirts, belts, jerseys, sweat pants, and motorcycle apparel, namely, pants, jackets, vests, boots, and gloves constructed for motorcycle riding

U.S. Registration No.	3308005	Application Date	03/01/2002
Registration Date	10/09/2007	Foreign Priority Date	NONE
Word Mark	FETISH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 2004/08/31 First Use In Commerce: 2004/08/31 All-purpose sports and athletic bags, fanny packs, backpacks, knapsacks, waist packs, gym bags, duffel bags, tote bags, book bags, hand bags, purses, clutch purses, change purses, shoulder bags, carry-on bags, travel bags, garment bags for travel, beach bags, satchels, luggage, luggage tags, trunks, suitcases, cosmetic cases sold empty, toiletry cases sold empty, vanity cases sold empty, cosmetic bags sold empty, passport cases and holders, key cases, coin pouches, wallets, billfolds, umbrellas		

U.S. Registration No.	3344925	Application Date	03/01/2002
Registration Date	11/27/2007	Foreign Priority Date	NONE
Word Mark	FETISH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2007/07/26 First Use In Commerce: 2007/07/26 Clothing in all fabrications, namely, jerseys, uniforms, athletic uniforms, pants, cycle pants, trousers, slacks, jeans, denim jeans, overalls, coveralls, jumpers, jump suits, shorts, boxer shorts, shirts, T-shirts, under shirts, night shirts, rugby shirts, polo shirts, tops, crop tops, tank tops, halter tops, sweat shirts, sweat shorts, sweat pants, warm-up suits, jogging suits, blouses, skirts, dresses, sweaters, vests, fleece vests, pullovers, fleece pullovers, snow suits, parkas, anoraks, ponchos, jackets, dinner jackets, sports jackets, golf and ski jackets, reversible jackets, coats, blazers, suits, turtlenecks, swimwear, beachwear, caps, berets, hats, headbands, wrist bands, head wear, ear muffs, aprons, scarves, bandanas, belts, suspenders, neckwear, neckties, ties, bow ties, cloth bibs, namely, ski bibs and cloth baby bibs, cloth diapers, booties, infantwear, underwear, briefs, trunks, bras, sports bras, singlets, socks, loungewear, robes, bathrobes, pajamas, sleepwear, night gowns, lingerie, camisoles, slips, stockings, body stockings, pantyhose, hosiery, knit hosiery, leg warmers, body suits, leggings, tights, leotards, unitards, gloves, mittens, footwear, shoes,		

	sneakers, boots, galoshes, sandals, zori, slippers and rainwear
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Ali R. Latifi/
Name	ALI R. LATIFI
Date	02/28/2009

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Serial No. 77/497,261

Trademark: FLIP FETISH

Published: June 12, 2008

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FETISH TRADEMARK COMPANY, LLC	)	
	)	
Opposer,	)	
	)	
v.	)	
	)	
HEATHER PIROZZI	)	
	)	
Applicant.	)	
<hr/>	)	

Opposition No.:

Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, Virginia 22313-1451  
Attn: Trademark Trial and Appeal Board

**NOTICE OF OPPOSITION**

Opposer, Fetish Trademark Company, LLC, a Delaware limited liability company, having its principal place of business at 530 Seventh Avenue, New York, New York 10018 ("Opposer"), believes that it will be damaged by the registration of the mark FLIP FETISH as shown in U.S. Application Serial No. 77/497,261 ("Application"), and hereby opposes its registration on the following grounds:

1. Opposer is the owner of trademark Registration No. 3,344,925 for the mark FETISH for "clothing and footwear" in International Class 25, in addition to Registration Nos. 2,652,841 and 3,308,005 for the marks FETISH CLOTHING and FETISH in International Classes 25 and 18 (hereinafter collectively referred to as the "Marks"). Attached are copies of the Registration Certificates of the Marks.

2. On June 12, 2008, Applicant, Heather Pirozzi, a U.S. citizen residing at 10072 Dana Drive, Huntington Beach, California 92646 ("Applicant"), filed the

Application seeking registration, on an intent to use basis, of FLIP FETISH for use with flip flops in International Class 25.

3. The Application was published for Opposition in the Official Gazette on November 4, 2008.

4. Opposer's Marks have been in use in commerce as early as January 1, 1999 and therefore has prior rights to the Applicant's application.

5. Applicant's proposed mark, FLIP FEISH, is similar in sound, appearance and meaning and is confusingly similar to Opposer's Marks. Further, the goods to be offered by Applicant are either identical or very closely related to those offered under Opposer's Marks.

6. The registration of Applicant's mark is likely to dilute the Opposer's Marks.

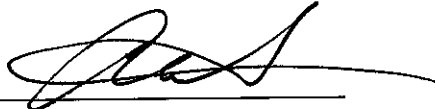
7. As a result of the foregoing, the maturation of the Application into a registration would cause a likelihood of confusion, mistake, or deception and a likelihood of dilution as to the source or origin of Opposer's goods and Applicant's goods. Consumers will erroneously believe that Applicant's goods are produced or licensed by or associated with Opposer.

8. Opposer would be damaged by the registration of the Applicant's mark, in that such registration would give Applicant *prima facie* exclusive right to the use of FLIP FETISH, despite the likelihood of confusion, mistake, or deception and likelihood of dilution described above.

WHEREFORE, Opposer respectfully prays that this Opposition be sustained in favor of Opposer, that the Application be rejected, and that registration of the Application be refused.

Dated: February 28, 2009

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ali R. Latifi', written over a horizontal line.

Ali R. Latifi  
TUCKER & LATIFI, LLP  
160 East 84<sup>th</sup> Street, Suite 5E  
New York, New York 10028  
(212) 472-6262  
Attorneys for Opposer,  
Fetish Trademark Company, LLC

**Int. Cl.: 25**

**Prior U.S. Cls.: 22 and 39**

**United States Patent and Trademark Office**

**Reg. No. 3,344,925**

**Registered Nov. 27, 2007**

**TRADEMARK  
PRINCIPAL REGISTER**

**FETISH**

FETISH TRADEMARK COMPANY, LLC (DELA-  
WARE LTD LIAB CO)  
530 SEVENTH AVENUE  
NEW YORK, NY 10018

FOR: CLOTHING IN ALL FABRICATIONS,  
NAMELY, JERSEYS, UNIFORMS, ATHLETIC UNI-  
FORMS, PANTS, CYCLE PANTS, TROUSERS,  
SLACKS, JEANS, DENIM JEANS, OVERALLS, COV-  
ERALLS, JUMPERS, JUMP SUITS, SHORTS, BOXER  
SHORTS, SHIRTS, T-SHIRTS, UNDER SHIRTS,  
NIGHT SHIRTS, RUGBY SHIRTS, POLO SHIRTS,  
TOPS, CROP TOPS, TANK TOPS, HALTER TOPS,  
SWEAT SHIRTS, SWEAT SHORTS, SWEAT PANTS,  
WARM-UP SUITS, JOGGING SUITS, BLOUSES,  
SKIRTS, DRESSES, SWEATERS, VESTS, FLEECE  
VESTS, PULLOVERS, FLEECE PULLOVERS, SNOW  
SUITS, PARKAS, ANORAKS, PONCHOS, JACKETS,  
DINNER JACKETS, SPORTS JACKETS, GOLF AND  
SKI JACKETS, REVERSIBLE JACKETS, COATS,  
BLAZERS, SUITS, TURTLENECKS, SWIMWEAR,  
BEACHWEAR, CAPS, BERETS, HATS, HEAD-  
BANDS, WRIST BANDS, HEAD WEAR, EAR  
MUFFS, APRONS, SCARVES, BANDANAS, BELTS,

SUSPENDERS, NECKWEAR, NECKTIES, TIES,  
BOW TIES, CLOTH BIBS, NAMELY, SKI BIBS AND  
CLOTH BABY BIBS, CLOTH DIAPERS, BOOTIES,  
INFANTWEAR, UNDERWEAR, BRIEFS, TRUNKS,  
BRAS, SPORTS BRAS, SINGLET, SOCKS, LOUN-  
GEWEAR, ROBES, BATHROBES, PAJAMAS, SLEEP-  
WEAR, NIGHT GOWNS, LINGERIE, CAMISOLES,  
SLIPS, STOCKINGS, BODY STOCKINGS, PANTY-  
HOSE, HOSIERY, KNIT HOSIERY, LEG WARMERS,  
BODY SUITS, LEGGINGS, TIGHTS, LEOTARDS,  
UNITARDS, GLOVES, MITTENS, FOOTWEAR,  
SHOES, SNEAKERS, BOOTS, GALOSHES, SAN-  
DALS, ZORI, SLIPPERS AND RAINWEAR, IN  
CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 7-26-2007; IN COMMERCE 7-26-2007.

OWNER OF U.S. REG. NO. 2,652,841.

SN 78-112,012, FILED 3-1-2002.

DORITT L. CARROLL, EXAMINING ATTORNEY

**Int. Cl.: 25**

**Prior U.S. Cls.: 22 and 39**

**United States Patent and Trademark Office**

**Reg. No. 2,652,841**

**Registered Nov. 19, 2002**

**TRADEMARK  
SUPPLEMENTAL REGISTER**

**FETISH CLOTHING**

MX CLOTHING, INC. (CALIFORNIA CORPORATION), DBA FETISH CLOTHING,  
11010 ARROW ROUTE, SUITE 101  
RANCHO CUCAMONGA, CA 91730

FOR: CLOTHING, NAMELY SWEATSHIRTS, LONG SLEEVE T-SHIRTS, SHORT SLEEVE T-SHIRTS, BELTS, JERSEYS, SWEAT PANTS, AND MOTORCYCLE APPAREL, NAMELY, PANTS, JACKETS, VESTS, BOOTS, AND GLOVES CONSTRUCTED FOR MOTORCYCLE RIDING, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 1-0-1999; IN COMMERCE 1-0-1999.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CLOTHING", APART FROM THE MARK AS SHOWN.

SER. NO. 76-070,112, FILED P.R. 6-12-2000; AM. S.R. 7-12-2002.

THOMAS GLEASON, EXAMINING ATTORNEY

**Int. Cl.: 18**

**Prior U.S. Cls.: 1, 2, 3, 22, and 41**

**United States Patent and Trademark Office**

**Reg. No. 3,308,005**

**Registered Oct. 9, 2007**

**TRADEMARK  
PRINCIPAL REGISTER**

**FETISH**

FETISH TRADEMARK COMPANY, LLC (DELA-  
WARE LTD LIAB CO)  
530 SEVENTH AVENUE  
NEW YORK, NY 10018

FOR: ALL-PURPOSE SPORTS AND ATHLETIC  
BAGS, FANNY PACKS, BACKPACKS, KNAPSACKS,  
WAIST PACKS, GYM BAGS, DUFFEL BAGS, TOTE  
BAGS, BOOK BAGS, HAND BAGS, PURSES,  
CLUTCH PURSES, CHANGE PURSES, SHOULDER  
BAGS, CARRY-ON BAGS, TRAVEL BAGS, GAR-  
MENT BAGS FOR TRAVEL, BEACH BAGS, SATCH-  
ELS, LUGGAGE, LUGGAGE TAGS, TRUNKS,

SUITCASES, COSMETIC CASES SOLD EMPTY,  
TOILETRY CASES SOLD EMPTY, VANITY CASES  
SOLD EMPTY, COSMETIC BAGS SOLD EMPTY,  
PASSPORT CASES AND HOLDERS, KEY CASES,  
COIN POUCHES, WALLET, BILLFOLDS, UM-  
BRELLAS, IN CLASS 18 (U.S. CLS. 1, 2, 3, 22 AND 41).

FIRST USE 8-31-2004; IN COMMERCE 8-31-2004.

SN 78-112,017, FILED 3-1-2002.

DORITT L. CARROLL, EXAMINING ATTORNEY

**CERTIFICATE OF SERVICE**

I hereby certify that this Notice of Opposition is being deposited with the United States Postal Service, postage prepaid, first class mail, in an envelope addressed to: Heather Pirozzi, 10072 Dana Drive, Huntington Beach, California 92646, on this 2nd day of March, 2009.

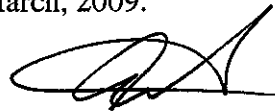


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Ali R. Latifi

**CERTIFICATE OF MAILING**

I hereby certify that this Notice of Opposition is being deposited with the United States Postal Service, postage prepaid, first class mail, in an envelope addressed to: Commissioner for Trademarks, Attn: Trademark Trial and Appeal Board, P.O. Box 1451, Alexandria, Virginia 22313-1451, on this 2nd day of March, 2009.



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Ali R. Latifi